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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,071	10/25/2001	Gregory Barclay	3646/30206	6720

7590 11/15/2004

Robert L. Stearns
5291 Colony Drive North
Saginaw, MI 48603

EXAMINER

PATEL, VISHAL A

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/004,071

Applicant(s)

BARCLAY ET AL.

Examiner

Vishal Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kashmerick et al (US. 6,209,883) in view of Miyaoh (US. 6,019,376).

Kashmerick discloses a gasket comprising a gasket plate (34) having an aperture (58) through the plate (plate 34), an annular flange (36', figures 5-6B, column 5, line 50 to column 6, line 5) surrounding the aperture and formed as one piece of the same material as the gasket plate for folding into surface-to-surface contact with an annular portion of the plate surrounding the aperture (figure 2, where the gasket plate has the flange folded over a portion of the plate), the annular flange providing a stopper seal (stopper formed by the flange and the annular portion of the plate) around the aperture, the annular flange having arcuately spaced areas of varying thickness (see figures 2 and 5-6B), the plate has bolt-receiving holes (24) spaced radially outwardly from the flange in arcuately spaced relation to one another, and the areas of the flange adjacent to the bolt-receiving holes are of lesser thickness than the areas of the flange more distant from the bolt-receiving holes (column 5, lines 65-67). The flange being in surface-to-surface contact with an annular portion of the plate surrounding the aperture and integrally connected to the annular portion by a doubled over connecting portion which defines an annular marginal edge of the aperture (aperture 58). The annular portion of the gasket is of uniform

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thickness (figure 2, annular portion of plate 34 in contact with 36 that has a uniform thickness).

The annular flange has varying thickness (figures 6A and 6B) and the annular flange has a radial extent (length of the annular flange).

Kashmerick discloses the invention substantially as claimed above but fails to disclose that the annular flange has a wavy outer edge varying between crests and valleys, the stopper having arcuately spaced areas of varying radial extent (this forms a non-circular aperture before folding the annular flange into the stopper seal), where the crest define relatively thicker areas of the annular flange having a relatively greater radial extent than that of relatively thinner areas of the annular flange defined by the valleys.

Miyaoh discloses a gasket comprising a gasket plate (12) having an aperture through the plate (aperture 12b). An integral annular tubular flange (flange formed by 14a and 14b, which extends perpendicularly to the plate) extending in a constant radial thickness (the thickness is constant) perpendicularly to the plate to an annular wavy edge varying in height between high and lows whereby (the height is varying due to the fact that 14a is longer and 14b is shorter). The flange (the flange formed by 14a and 14b) may be doubled (intended use, the flange is doubled) over into surface to surface contact with an annular portion (portion under 14 and 14b of plate 12) of the plate surrounding the aperture, a stopper seal around the aperture (the flange forms a stopper seal), having an outer annular margin of varying radial extent relative to the aperture (see figures 1-3). A greater radial extent is near bolt receiving holes (holes Hb) than a radial extent is away from the bolt receiving holes (see figures and column 3, lines 23-32).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to configure the radial extent of the annular flange of Kashmerick to have

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varying crests and valleys that form varying radial extent, where the thicker areas of the annular flange having a greater radial extent than a radial extent for the thinner areas of the annular flange as taught by Miyaoh, to provide proper clamping stress or tightening pressure on the gasket by bolts (column 3, lines 45-47 of Miyaoh).

Response to Arguments

3. Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishal Patel whose telephone number is (703) 308-8495. The examiner can normally be reached on Monday through Friday from 7:30 PM to 4:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann, can be reached on (703) 306-4115.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168. Technology Center 3600 Customer Service is available at 703-308-1113. General Customer Service numbers are at 800-786-9199 or 703-308-9000. Fax Customer Service is available at 703-872-9325.


Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to: 703-872-9326, for formal communications for entry before Final action: or,
703-872-9327, for formal communications for entry after Final action.

Hand-delivered responses should be brought to Crystal Park Five, 2451 Crystal Drive, Arlington, Virginia, Seventh Floor (Receptionist suite adjacent to the elevator lobby).

VP
November 8, 2004


ALISON PICKARD
Primary Patent Examiner
Tech. Center 3600